

REMARKS

In response to the final Office Action mailed on April 3, 2009, Applicants respectfully requests reconsideration. Claims 1, 4-7, 11-15, 19, 22-25, 29, 32-35, 37 and 38 are pending in this Application. Claims 1, 11, 19 and 29 are independent claims and the remaining claims are dependent claims. Applicants believe that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

The Examiner rejected claims 1, 4-6, 11-15, 19, 22-24, 29, 32-33, 35, 37 and 38 under 35 U.S.C. §102(e) as being anticipated by U. S. Patent No. 6,449,739 to Landan (hereinafter Landan). claim 1 states in part the testing of the target include wherein the target is "...an object oriented software component, said object-oriented software component usable to build an application...". The Examiner stated that Landan also shows this at various locations, however Landan is used to test websites and servers (see column 2, lines 30-33). A website or a server is not the same as an object oriented software component. An object oriented software component can be, for example, an individual Enterprise Java Bean, which is used with other object-oriented software components to provide an application. A website or server can be a collection of object oriented software components, however testing of the collection of object oriented software components as a whole does not provide information related to the performance of an individual object oriented software components (e.g., a particular EJB). For example, an application may include 50 object oriented software components. Testing of the application may indicate a weakness in the application but not indicate which object oriented software component (e.g., which EJB) is the weak link. By way of the present invention the individual object oriented software components are tested such that a weak or underperforming object oriented software component of an application is identified such that remedial action can be taken (e.g., use of a more powerful EJB in place of the identified underperforming EJB). A website or a server

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cannot be considered the same thing as an individual object-oriented software component usable to build an application. By testing of an individual object oriented software component, a more detailed test of the application and determination regarding performance of a potentially weak object-oriented software component is provided, rather than just testing a website or server in general.

Further, Landan recites at column 2, lines 40-45 and again at column 5, lines 25-30 that the agents are installed on “actual end-users”. Thus, in Landan it is only systems that are actual end-users of the transactional server that are used to exercise the website or server application. Claim 1 is not limited to “actual end-users” and instead is able to use any system that agrees to be made available. By not so limiting the systems used to exercise the object oriented software component, a more robust and useful test is performed since the systems can be much more varied and in many more different locations such that different routers and switches are used. Landan fails to disclose or suggest the same, as Landan allows testing of websites by other system which are commonly owned, and therefore does not provide the same randomness of systems accessing the component being tested.

In view of the above, claim 1 is believed allowable over Landan. Claims 11, 19 and 29 contain similar language as claim 1 and are believed allowable for at least the same reasons as claim 1. Claims 4-6, 112-15, 22-24, 32-33, 35, 37 and 38 depend from claims 1, 11, 19 or 29 and are believed allowable as they depend from a base claim which is believed allowable. Accordingly, the rejection of claims 1, 4-6, 11-15, 19, 22-24, 29, 32-33, 35, 37 and 38 under 35 U.S.C. §102(e) as being anticipated by Landan is believed to have been overcome.

Applicant(s) hereby petition(s) for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an online payment made herewith, please charge any deficiency to Deposit Account No. 50-3735.

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If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,

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